REMARKS

The above-identified application is United States application serial number 10/678,987 filed on October 2, 2003. Claims 9-42 are pending. Claims 9-42 are rejected. Applicant respectfully traverses these rejections.

Final Rejection

In the present final office action, the Examiner withdrew the finality of the Office Action dated April 18, 2006 and applied new ground of rejection to all of Claims 9-42 based on previously uncited references. MPEP §706.07(e) states that "the finality of a rejection may be withdrawn in order to apply a new ground of rejection…in situations where a new reference either fully meets at least one claim." Since this is the first response that allows Applicant to distinguish the claims from the newly cited references, Applicant respectfully requests that the finality of the office action be withdrawn.

Rejection of Claims under35 U.S.C. §103

Claims 9-18, 21, 23-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voorhees (2,879,073) in view of Clayton (4,420,024). "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP § 2143. In the present case, neither Voorhees or Clayton, alone or in combination, teach or suggest all the claim limitations, nor is there a reasonable expectation of success for the device resulting from the combination of Voorhees and Clayton.

Independent Claims 9, 14, 16, and 24 recite "said external rigid support member having a main portion, a bottom portion, and side portions, the bottom portion joining the main and side portions to form a partially enclosed concave part into which a portion of <u>said flexible enclosure is fitted and affixed</u>". Neither Voorhees or Clayton disclose or suggest a <u>flexible</u> enclosure

being affixed to the rigid support member. Voorhees teaches that the bag is strapped to the frame member. (Voorhees col. 2 lines 6-10, FIG. 1). The straps can only encompass an area that extends from side to side of cradle 22 and therefore do not affix the flexible enclosure of Clayton within the rigid support of Voorhees. Affixing a flexible enclosure within straps does not have a reasonable expectation of success because the flexible enclosure of Clayton is likely to collapse and slip out of and/or be easily removed from the rigid support of Voorhees. Claims 9, 14, 16, and 24 are distinguishable from Voorhees and Clayton, alone and in combination, for at least these reasons.

Independent Claims 9, 14, and 16 recite a "flexible enclosure including an opening formed in said enclosure and closure means connected to said enclosure so that said closure means can be engaged to close said opening." The examiner does not discuss this feature in paragraph 4 of the Office Action where rationale for rejecting other features of Claims 9, 14, and 16 is provided. Neither Voorhees or Clayton disclose or suggest a flexible enclosure that includes an opening and closure means that can be engaged to close said opening. Claims 9, 14, and 16 are distinguishable from Voorhees and Clayton, alone and in combination, for at least these reasons.

Independent Claims 9, 14, 16, and 24 further recite a "flexible enclosure being formed of a strong material arranged as an enclosure having a top, sides and bottom portions, said sides being flexible so that when said bag does not contain contents said top can be collapsed into said concave part in a storage position." (Emphasis added). Clayton is cited as disclosing the flexible enclosure, however, Clayton does not disclose or suggest a flexible enclosure that includes a bottom portion. As shown in FIG. 3 of Clayton, the enclosure is configured to open into a flat position, which would not be possible if the enclosure included a bottom portion. (Clayton col. 2 lines 47-51). Claims 9, 14, 16, and 24 are distinguishable from Voorhees and Clayton, alone and in combination, for at least these reasons.

Claims 10-13 and 31-33 depend from Claim 9; Claims 15 and 34-36 depend from Claim 14; Claims 17-23 and 37-39 depend from Claim 16; and Claims 25-30 and 40-42 depend from Claim 24, and include features that further distinguish them from the prior art. For example, Claim 21 recites a "flexible enclosure having two corners and said external rigid, support

member having two corners, the corners of the flexible enclosure being matingly received and affixed into the corners of the external rigid support member." Clayton is cited as teaching this feature on page 4 of the Office Action, however, neither Clayton or Voorhees, alone or in combination, teach this feature. Claim 21 is distinguishable from the cited references for at least these additional reasons.

Claims 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Voorhees (2,879,073) in view of Clayton (4,420,024) as applied to claims 16 and 21 above, and in view of Rekuc et al. (5,743,363). Claim 20 recites "reinforcement ribs being formed on said rigid member main portion in longitudinal or lateral directions." Rekuc is cited as teaching this feature on page 6 of the Office Action, however, none of the cited references, alone or in combination, teach this feature. Rekuc teaches ribs 29 formed on the bottom portion of the member 11, not the main (upright) portion. Claim 20 is distinguishable from the cited references for at least these additional reasons.

Claims 32, 35, 38, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voorhees (2,879,073) in view of Clayton (4,420,024) as applied to claims 9, 14, 16 and 24 above, and in view of Speck (6,595,358). Claims 32, 35, 38, and 42 recite "wherein the opening extends the complete length of one of said sides." Speck is cited as teaching this feature, however, the zippered opening 38 of Speck only extends along a portion of one of the sides, i.e., the lower interior compartment 36, not the entire length of the side. Claims 32, 35, 38, and 42 are distinguishable from the cited references, alone and in combination, for at least these reasons.

Allowance of Claims 9-42 is respectfully requested.

Claim Amendment

Claim 29 has been amended to correct the wording, specifically, the term "bag" is replaced with the term "flexible enclosure".

New Claim

Claim 43 has been added to capture subject matter originally at least on page 7 lines 10-15 of the specification. Examination of Claim 43 is respectfully requested.

CONCLUSION

Claims 9-42 are believed to be in condition for allowance and a notice to that effect is solicited. Examination of Claim 43 is respectfully requested. Should any issues remain that might be subject to resolution through a telephone interview, the examiner is requested to telephone the undersigned at (949) 350-7301.

I hereby certify that this correspondence is being transmitted to the USPTO on the date shown below:

/Mary Jo Bertani/
(Signature)

Mary Jo Bertani
(Printed Name of Person Signing Certificate)

October 9, 2006
(Date)

Respectfully submitted,

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